

House Daily Reader

Monday, February 01, 1999

[illegible]

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

557C0134

HOUSE AGRICULTURE AND NATURAL
RESOURCES COMMITTEE ENGROSSED NO.
HB1005 - 1/29/99

Introduced by: Representatives Wetz, Jaspers, Lockner, and Weber and Senators Brown
(Arnold), Benson, Drake, Lange, Reedy, Valandra, and Vitter at the request of
the Interim Agriculture Committee

1 FOR AN ACT ENTITLED, An Act to revise the membership of the Value Added Finance
2 Authority.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 1-16E-4.1 be amended to read as follows:

5 1-16E-4.1. The Board of Directors of the Value Added Finance Authority consists of ~~seven~~
6 nine members appointed by the Governor. No more than ~~four~~ five members may be of the same
7 political party. ~~For the initial board, the Governor shall appoint four members to four-year terms~~
8 ~~and three members to two-year terms. Thereafter, the~~ The term of each member is four years.

9 A member appointed to fill a vacancy occurring other than by expiration of a term is appointed
10 for the remainder of the unexpired term.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to State Affairs. H.J. 32

3 1/14/99 House of Representatives Referred to Agriculture and Natural Resources. H.J. 60

4 1/28/99 Scheduled for Committee hearing on this date.

5 1/28/99 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 12, NAYS 1.

6 H.J. 232

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0401

HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO.

HB1057 - 1/29/99

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
Department of Agriculture

1 FOR AN ACT ENTITLED, An Act to revise certain provisions and fees regarding certain
2 licenses issued by the Department of Agriculture and to revise certain provisions and fees
3 regarding certain inspections.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 39-14-40.1 be amended to read as follows:

6 39-14-40.1. No person who manufactures a commercial feed within the state, or whose name
7 appears on the label of a commercial feed as guarantor, may distribute a commercial feed in the
8 state without first obtaining a commercial feed license from the secretary on forms provided by
9 the secretary that identify the manufacturer's or guarantor's name, place of business, and location
10 of each manufacturing facility in the state and such other appropriate information necessary for
11 enforcement of this chapter. The fee for a new or renewal license is ~~fifty~~ one hundred dollars per
12 in-state location or manufacturer name and location listed on a commercial feed label, ~~except~~
13 ~~that.~~ However, in the case of in-state manufacturers who manufacture only customer formula
14 feeds, no fee may be collected. Each license expires on the thirty-first of December of ~~each~~ the
15 year after the date of issuance. Commercial feed license applications for renewal received after

the thirty-first of January of each year shall be assessed a late payment fee equal to the original license fee, which shall be added to the original fee and shall be paid by the applicant before the renewal license is issued.

Section 2. That § 39-14-43 be amended to read as follows:

39-14-43. An inspection fee established in rules promulgated by the secretary of agriculture, pursuant to chapter 1-26, but not to exceed twenty-four cents per ton, shall be paid on commercial feeds distributed in this state by the person who distributes the commercial feed to the consumer subject to the following:

- (1) No fee need be paid on a commercial feed if the payment has been made by a previous distributor;
- (2) No fee need be paid on customer-formula feeds;
- (3) No fee need be paid on commercial feeds used as ingredients for the manufacture of commercial feeds provided the fee has been paid by a previous distributor. If the fee has been paid, credit is given for the payment;
- (4) In the case of a pet food which is distributed in the state only in packages of ten pounds or less, ~~an annual~~ a biennial fee of ~~fifty~~ one hundred dollars per product shall be paid in lieu of the inspection fee specified above;
- (5) In the case of a specialty pet food which is distributed in the state only in packages of ten pounds or less, ~~an annual~~ a biennial fee of ~~twenty-five~~ fifty dollars per product shall be paid in lieu of the inspection fee specified above; and
- (6) The minimum inspection fee shall be ~~ten~~ twenty dollars per ~~six-month~~ twelve-month period.

Section 3. That § 39-14-44 be amended to read as follows:

39-14-44. Any person who is liable for payment of an inspection fee shall:

- (1) File, not later than the last day of January ~~and July~~ of each year, ~~a semi-annual~~ an

1 annual statement, setting forth the number of net tons of commercial feeds distributed
2 in this state during the preceding ~~six~~ twelve months. Upon filing ~~such~~ the statement,
3 the person shall pay the inspection fee at the rate stated in § 39-14-43. Inspection fees
4 that are due and have not been remitted to the Department of Agriculture ~~within thirty~~
5 ~~days following the due date~~ January thirty-first of each year shall have a late payment
6 fee of ten percent or ~~ten~~ twenty dollars, whichever is greater, added to the amount
7 due when payment is finally made. The assessment of this late payment fee does not
8 prevent the department from taking other actions as provided in this chapter; and

9 (2) Keep such records as may be necessary or required by the secretary of agriculture,
10 pursuant to rules promulgated pursuant to chapter 1-26, to indicate accurately the
11 tonnage of commercial feed distributed in this state. The secretary may examine ~~such~~
12 the records to verify statements of tonnage.

13 Failure to make an accurate statement of tonnage or to pay the inspection fee or comply with
14 this section constitutes sufficient cause for cancellation of a commercial feed license or rejection
15 of a commercial feed license application.

16 Section 4. That § 39-18-8 be amended to read as follows:

17 39-18-8. Upon approval by the secretary of agriculture, a copy of the registration of an
18 animal remedy shall be forwarded to the applicant. All registrations are on ~~an annual~~ a biennial
19 basis, expiring the thirty-first day of December of the year after the date of registration. An
20 annual registration fee of ~~twenty-five~~ fifty dollars for each product shall be paid to the secretary
21 upon application for registration.

22 Section 5. That § 38-19-1 be amended to read as follows:

23 38-19-1. Terms, as used in this chapter, mean:

24 (1) "Available phosphoric acid," the sum of the water-soluble and the citrate-soluble
25 phosphoric acid and reported as phosphorus pentoxide;

- 1 (2) "Brand," a term, design, or trademark used in connection with one or several grades
2 of commercial fertilizer;
- 3 (3) "Bulk commercial fertilizer," any volume of a commercial fertilizer which is
4 transported or held for resale in an immediate reusable container in undivided
5 quantities greater than one hundred pounds net dry weight or fifty-five U.S. gallons
6 liquid measure;
- 7 (4) "Bulk commercial fertilizer storage facility," any area, location, tract of land, building,
8 structure, or premises constructed in accordance with rules promulgated by the
9 secretary for the storage of bulk commercial fertilizer;
- 10 (5) "Commercial fertilizer," any substance containing any recognized plant nutrient which
11 is used for its plant nutrient content and which is designed for use or claimed to have
12 value in promoting plant growth, except unmanipulated animal and vegetable
13 manures, marl, lime, limestone, lime sludge, sewage sludge, wood ashes, gypsum,
14 compost, and other products excluded by rule;
- 15 (5A) "Compost," a group of organic residues or a mixture of organic residues and soil that
16 have been piled, moistened, and allowed to undergo aerobic biological decomposition;
- 17 (6) "Distribute," to import, consign, manufacture, produce, compound, mix, or blend
18 commercial fertilizer, or to offer for sale, sell, barter, or otherwise supply commercial
19 fertilizer in this state;
- 20 (7) "Distributor," any person who distributes commercial fertilizer in this state;
- 21 (8) "Fertilizer material," a commercial fertilizer which either:
22 (a) Contains important quantities of no more than one of the primary plant
23 nutrients: nitrogen, phosphoric acid, and potash; or
24 (b) Has approximately eighty-five percent of its plant nutrient content present in
25 the form of a single chemical compound; or

1 (c) Is derived from a plant or animal residue or by-product or a natural material
2 deposit which has been processed in such a way that its content of primary
3 plant nutrients has not been materially changed except by purification and
4 concentration;

5 (9) "Grade," the percentage of total nitrogen, available phosphoric acid, and soluble
6 potash stated in whole numbers in the same terms, order and percentages as in the
7 guaranteed analysis. However, speciality fertilizers may be guaranteed in fractional
8 units of less than one percent of total nitrogen, available phosphoric acid, and soluble
9 potash. Fertilizer materials, bone meal, manures, and similar raw materials may be
10 guaranteed in fractional units;

11 (10) "Investigational allowance," allowance for variations inherent in the taking,
12 preparation, and analysis of an official sample of commercial fertilizer;

13 (11) "Label," a display of written, printed, or graphic matter on or attached to the
14 immediate container of any article and the outside container or wrapper of the retail
15 package, or a statement or document accompanying a commercial fertilizer;

16 (12) "Labeling," all written, printed, or graphic matter, upon or accompanying any
17 commercial fertilizer or advertisements, brochures, posters, television and radio
18 announcements used in promoting the sale of commercial fertilizer;

19 (13) "Licensee," any person who receives a license to distribute a commercial fertilizer
20 under the provisions of this chapter;

21 14) "Metric ton," a net weight of one thousand kilograms;

22 (15) "Mixed fertilizer," a commercial fertilizer containing any combination or mixture of
23 fertilizer materials;

24 (16) "Nitrogen," the element of nitrogen;

25 (17) "Official sample," any sample of commercial fertilizer taken by the secretary of

1 agriculture or ~~his~~ an agent according to methods prescribed by this chapter;

2 (18) "Percent" or "percentage," the percentage by weight;

3 (19) "Primary nutrients," nitrogen, available phosphoric acid and soluble potash;

4 (20) "Recognized plant nutrients," primary nutrients, secondary nutrients and micro
5 nutrients;

6 ~~(21) "Registrant," any person who registers specialty fertilizers for distribution under the~~
7 ~~provisions of this chapter to nonregistrants;~~

8 (22) "Secondary and micro nutrients," those nutrients other than primary nutrients that are
9 essential for the normal growth of plants and that may need to be added to the growth
10 medium. Secondary plant nutrients include calcium, magnesium, and sulfur; micro
11 plant nutrients include boron, chlorine, cobalt, copper, iron, manganese, molybdenum,
12 sodium and zinc;

13 (23) "Secretary," the secretary of the Department of Agriculture;

14 (24) "Sell:"

15 (a) The act of selling, transferring ownership;

16 (b) The offering and exposing for sale, exchange, or distribution;

17 (c) Giving away; or

18 (d) Receiving, accepting, holding, or possession for sale, exchange or distribution;

19 (24A) "Sewage sludge," "sludge," "biosolids," any solid, semisolid, or liquid residue
20 removed during the treatment of municipal or domestic sewage by publicly-owned
21 treatment works regulated under 40 CFR Part 503, as amended to January 1, 1995,
22 and the Clean Water Act as amended to January 1, 1995;

23 (25) "Soluble potash," that portion of the potash contained in fertilizers or fertilizer
24 materials which is soluble in an aqueous ammoniacal solution of 0.8% ammonium
25 oxalate, after boiling in a 1.14% solution of ammonium oxalate and reported as

1 potassium oxide;

2 (26) "Speciality fertilizer," a commercial fertilizer, lime, lime sludge, compost, sewage
3 sludge, or products containing sewage sludge distributed for nonfarm use;

4 (27) "Ton," a net weight of two thousand pounds avoirdupois.

5 Section 6. That § 38-19-2.1 be amended to read as follows:

6 38-19-2.1. No person whose name appears on the label of a commercial fertilizer or who
7 ~~manufacturers or mixes a commercial fertilizer in this state~~ may distribute that fertilizer until ~~he~~
8 the person has obtained a distribution license from the secretary of agriculture. A distribution
9 license is required for each location where commercial fertilizer is manufactured or mixed. The
10 license may be granted only after payment of a fee of ~~twenty-five~~ fifty dollars by the licensee.
11 Each license expires on the thirty-first day of December of ~~each~~ the year after the date of
12 issuance. ~~This section does not apply to specialty fertilizers, which registration requirements~~
13 ~~appear in § 38-19-3.1.~~ Any distribution license application for renewal received after the thirty-
14 first day of January of any year shall be assessed a late payment fee equal to the original license
15 fee, which shall be added to the original fee and shall be paid by the applicant before the renewal
16 license is issued. Any person who fails to obtain the proper license is subject to a civil penalty
17 not to exceed one thousand dollars per violation. Notice must be given by registered mail prior
18 to the civil penalty being imposed.

19 Section 7. That § 38-19-2.2 be amended to read as follows:

20 38-19-2.2. An application for a commercial fertilizer distribution license shall include the
21 name and address of the licensee ~~and the name and address of each distribution point operated~~
22 ~~by the licensee in the state.~~ The licensee's name and address as it appears on the license shall
23 appear on all labels and pertinent invoices used by the licensee and on all bulk storage units
24 operated by the licensee in this state.

25 Section 8. That § 38-19-3.1 be repealed.

~~38-19-3.1. No person may distribute in this state a specialty fertilizer to a nonregistrant until it is registered with the secretary of agriculture by the manufacturer or distributor whose name appears on the label. An application in duplicate for each brand and product name of each grade of specialty fertilizer shall be made on a form furnished by the secretary and shall be accompanied with a registration and inspection fee of twenty-five dollars for each brand and product name of each grade. Two labels for each brand and product name of each grade shall accompany the application. Upon the approval of an application by the secretary, a copy of the registration shall be furnished the applicant. All registrations expire on the thirty-first day of December of each year.~~

Section 9. That § 38-19-3.2 be repealed.

~~38-19-3.2. Any specialty fertilizer containing pesticides and meeting the requirements of chapter 38-20A is exempt from annual registration as required by § 38-20A-4.~~

Section 10. That § 38-19-4.1 be repealed.

~~38-19-4.1. An application for registration shall include the following:~~

~~(1) Name and address of the manufacturer or distributor;~~

~~(2) The brand and product name;~~

~~(3) The grade;~~

~~(4) The guaranteed analysis;~~

~~(5) The net weight.~~

Section 11. That § 38-19-10 be amended to read as follows:

38-19-10. There is paid to the secretary of agriculture for all commercial fertilizer distributed to nonlicensees in this state an inspection fee of twenty cents per ton. ~~This fee is increased by thirty cents per ton which increase shall be deposited annually into the groundwater protection fund to fund the groundwater research and education program established pursuant to § 46A-1-85 for five years, at which point the fertilizer inspection fee for each ton of fertilizer~~

1 ~~shall be twenty cents per ton.~~ The secretary of agriculture may promulgate rules pursuant to
2 chapter 1-26 to provide for an increase in the tonnage inspection fee of up to five cents per ton.
3 Such increase shall be commensurate with the overall cost of conducting commercial fertilizer
4 inspections, investigations, monitoring, providing information and education, and taking
5 enforcement action against violators.

6 However, sales or exchanges between importers, manufacturers, or licensees are exempt
7 from the inspection fee. ~~Also, the inspection fee does not apply to specialty fertilizer.~~

8 Section 12. That § 38-19-20 be repealed.

9 ~~— 38-19-20. The secretary of agriculture, pursuant to rules promulgated pursuant to the~~
10 ~~provisions of chapter 1-26, may cancel the license of any person or registration of any~~
11 ~~commercial fertilizer, or refuse to issue a license or registration as herein provided, upon~~
12 ~~satisfactory evidence that the licensee or registrant has used fraudulent or deceptive practices in~~
13 ~~evasions or attempted evasions of the provisions of this chapter or any rules promulgated~~
14 ~~hereunder. However, no license or registration may be revoked or refused until the licensee or~~
15 ~~registrant has been given an opportunity to appear for a hearing by the secretary, such notice and~~
16 ~~hearing to follow rules promulgated therefore pursuant to the provisions of chapter 1-26.~~

17 Section 13. That chapter 38-19 be amended by adding thereto a NEW SECTION to read as
18 follows:

19 The secretary may request from a license applicant or licensee, a copy of any label and any
20 labeling in order to determine compliance with the provisions of this chapter.

21 Section 14. That chapter 38-19 be amended by adding thereto a NEW SECTION to read as
22 follows:

23 The secretary of agriculture may reject the commercial fertilizer distribution license
24 application of any firm not in compliance with the provisions of this chapter and may cancel the
25 commercial fertilizer license of any firm subsequently found not to be in compliance with any

1 provision of this chapter. However, no commercial fertilizer distribution license may be refused
2 or canceled unless the licensee has been given an opportunity to be heard before the secretary
3 and to amend the application in order to comply with the requirements of this chapter.

4 Section 15. That § 38-19A-4 be amended to read as follows:

5 38-19A-4. Each separately identified soil conditioner product shall be registered before being
6 distributed in this state. The application for registration shall be submitted to the secretary of
7 agriculture on the form furnished or approved by the secretary and shall be accompanied by a
8 fee of ~~twenty-five~~ fifty dollars per product. Upon approval by the secretary, a copy of the
9 registration shall be furnished to the applicant. Each registration shall expire on December
10 thirty-first of the year following the date of issuance. Each registrant shall submit to the secretary
11 a copy of labels and advertising literature with the registration request for each soil amendment.

12 Section 16. That § 38-21-17 be amended to read as follows:

13 38-21-17. No person may engage in the business of applying pesticides to the lands of
14 another, advertise as being in the business of applying pesticides to the lands of another at any
15 time, apply pesticides while in the performance of ~~his~~ the person's duties as a governmental
16 employee or otherwise act as a commercial applicator without an applicator's license issued by
17 the secretary of agriculture, unless exempted under the provisions of this chapter. The secretary
18 shall require ~~an annual~~ a fee of ~~twenty-five~~ fifty dollars for each applicator license issued. The
19 secretary of agriculture shall issue an applicator license to government employees without a
20 license fee. The fee exempt license is valid only when the applicator is applying pesticides in the
21 course of ~~his~~ the applicator's employment for the governmental entity. Any person who violates
22 this section is subject to a civil penalty not to exceed five thousand dollars per violation.

23 Section 17. That § 38-21-26 be amended to read as follows:

24 38-21-26. A licensed applicator's license shall expire on the last day of February of the
25 second year following the year of issue unless it has been revoked or suspended prior thereto by

the secretary of agriculture for cause, as provided for in § 38-21-44.

Section 18. That § 38-21-33.1 be amended to read as follows:

38-21-33.1. It is a Class 2 misdemeanor for any person to act in the capacity of a licensed pesticide dealer or advertise as a licensed pesticide dealer at any time without first having obtained ~~an annual~~ a license from the Department of Agriculture which shall expire on the last day of February of the second year following the year of issue. In addition to any criminal penalty, any person who violates this section is subject to a civil penalty not to exceed five thousand dollars per violation.

Section 19. That § 38-21-33.5 be amended to read as follows:

38-21-33.5. Application for a license shall be accompanied by a ~~fifty~~ one hundred dollar ~~annual~~ license fee and shall be on a form prescribed by the secretary of agriculture. ~~The annual license fee for any applicant who also holds a licensed applicator license shall be twenty-five dollars.~~

Section 20. That § 38-21-42 be amended to read as follows:

38-21-42. Any person holding a current valid license or certification may renew ~~such~~ the license or certification for the next year biennium without taking another examination unless the secretary of agriculture determines that additional knowledge related to classifications for which the applicant has applied makes a new examination necessary or if additional demonstration of qualifications is determined necessary for a person who has had a license suspended or revoked or has had one or more previous violations of this chapter.

Section 21. That § 38-21-43 be amended to read as follows:

38-21-43. If the application for renewal of any license provided for in this chapter is not filed prior to March first in any year of expiration, a penalty of fifty dollars shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license is issued.

Section 22. There is hereby established in the state treasury the agricultural promotion and

1 education fund. Any interest earned on money in the fund shall be deposited in the fund. Money
2 in the fund is continuously appropriated to the Department of Agriculture to provide funding for
3 educational or promotional projects and activities that enhance and promote the well-being of
4 South Dakota's agricultural sector. The department shall promulgate rules pursuant to chapter
5 1-26 to establish procedures and criteria for the selection of projects and activities to receive
6 such funds.

7 Section 23. Each year, the sum of fifty thousand dollars shall be deposited in the agricultural
8 promotion and education fund on a prorata basis from money collected from the following
9 sources:

- 10 (1) Commercial feed licenses pursuant to § 39-14-40.1;
- 11 (2) Fees paid on pet foods and specialty pet foods pursuant to § 39-14-43;
- 12 (3) Animal remedy registrations pursuant to § 39-18-8;
- 13 (4) Commercial fertilizer distributor licenses pursuant to § 38-19-2.1;
- 14 (5) Specialty fertilizer pesticide registration pursuant to § 38-20A-4;
- 15 (6) Specialty fertilizer inspection fee pursuant to § 38-19-10;
- 16 (7) Soil conditioner product registration pursuant to § 38-19A-4;
- 17 (8) Pesticide applicator license pursuant to § 38-21-17; and
- 18 (9) Pesticide dealer's license pursuant to § 38-21-33.5.

1 **BILL HISTORY**

2 1/12/99 First read in House and referred to Agriculture and Natural Resources. H.J. 42

3 1/19/99 Scheduled for Committee hearing on this date.

4 1/19/99 Agriculture and Natural Resources Do Pass, Passed, AYES 11, NAYS 0. H.J. 79

5 1/20/99 House of Representatives Referred to Agriculture and Natural Resources. H.J. 100

6 1/26/99 Scheduled for Committee hearing on this date.

7 1/28/99 Scheduled for Committee hearing on this date.

8 1/28/99 Agriculture and Natural Resources Do Pass Amended, Passed, AYES 13, NAYS 0.

9 H.J. 233

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

930C0127

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1070** - 1/29/99

Introduced by: Representatives Brooks, Crisp, Hunt, and Kooistra and Senators Madden, Albers, and Munson (David)

1 FOR AN ACT ENTITLED, An Act to authorize county road districts to establish certain vehicle
2 speed and weight restrictions and to revise certain county road district formation
3 requirements.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 31-12A-1 be amended to read as follows:

6 31-12A-1. ~~A populated~~ Any area outside the boundary of a municipality, which is situated
7 so that the construction or maintenance of roads becomes desirable, may be incorporated by its
8 landowners as a road district pursuant to this chapter.

9 Section 2. That § 31-12A-21 be amended to read as follows:

10 31-12A-21. The board of trustees may:

11 (1) Appoint a treasurer and a clerk, an engineer, attorney, and other employees for the
12 road district and fix their compensation. These officers shall hold their respective
13 offices at the pleasure of the board, and be bonded for the faithful performance of
14 their duties as may be required by the board;

15 (2) Sue and be sued and contract in the name of the district;

16 (3) Adopt a corporate seal;

1 (4) Construct roadways and maintain them;

2 (5) Borrow money, levy taxes, and special assessments, and issue bonds pursuant to
3 § 31-12A-23;

4 (6) Establish speed and weight limits and other restrictions on roads under the road
5 district's jurisdiction in accordance with the provisions of sections 5 to 9, inclusive,
6 of this Act.

7 Section 3. That chapter 31-12A be amended by adding thereto a NEW SECTION to read
8 as follows:

9 Any road constructed or maintained pursuant to this chapter is a public highway, and any
10 speed limits, vehicle weight limits, and any other vehicle or traffic regulations on such roads may
11 be enforced by any law enforcement officer.

12 Section 4. That subdivision (14) of § 32-14-1 be amended to read as follows:

13 (14) "Local authorities," every county, municipal, township, road district, and other local
14 board or body having authority to adopt local police regulations under the
15 Constitution and laws of this state;

16 Section 5. That § 32-14-3 be amended to read as follows:

17 32-14-3. Local authorities, except as expressly authorized by ~~§§ 32-25-16 and 32-29-2~~ shall
18 ~~have no power or authority to~~ chapter 32-25 and § 32-29-2, may not alter any speed limitations
19 declared in chapter 32-25 or to enact or enforce any ordinance, charter provision, or bylaw
20 duplicating the provisions of chapter 32-23 or to enact or enforce any rule or regulation contrary
21 to the provisions of chapters 32-14 to 32-19, inclusive, or 32-22 and 32-24 to 32-34, inclusive,
22 except as provided by §§ 32-14-4 and 32-14-5.

23 Section 6. That § 32-14-6 be amended to read as follows:

24 32-14-6. Local authorities, including road districts, may by ordinance or resolution prohibit
25 the operation of vehicles upon any highway or impose restrictions as to the weight of vehicles

1 for a total period not to exceed ninety days in any one calendar year, ~~when. Such prohibitions~~
2 or restrictions apply only to vehicles to be operated upon any highway under the jurisdiction of
3 and for the maintenance of which such local authorities are responsible ~~whenever any said~~ and
4 only if the highway by reason of deterioration, rain, snow, or other climatic conditions will be
5 seriously damaged or destroyed unless the use of vehicles ~~thereon on the highway~~ is prohibited
6 or the permissible weights ~~thereof of the vehicles are~~ reduced. ~~Such local authorities~~ Any local
7 authority enacting any such ordinance or resolution shall erect and maintain or cause to be
8 erected and maintained signs designating the provisions of the ordinance or resolution at each
9 end of that portion of any highway affected ~~thereby and the~~ by the ordinance or resolution. The
10 ordinance or resolution ~~shall not be effective until or is not valid~~ unless such signs are erected
11 and maintained.

12 Section 7. That § 32-14-7 be amended to read as follows:

13 32-14-7. Local authorities, including road districts, may ~~also~~ by ordinance or resolution
14 prohibit the operation of trucks or other commercial vehicles or impose limitations as to the
15 weights ~~thereof of such vehicles~~ on designated highways, ~~which. The~~ prohibitions and limitations
16 shall be designated by appropriate signs placed on such highways.

17 Section 8. That § 32-22-47 be amended to read as follows:

18 32-22-47. The board of county commissioners of any county, the board of supervisors of any
19 township, the board of trustees of any road district, or the transportation commission of the
20 South Dakota Department of Transportation, their officers or agents, shall erect and maintain
21 at a point on the right-of-way and within one hundred feet of both entrances to any bridge and
22 may, where they deem necessary, erect and maintain at the nearest road intersection in each
23 direction from any bridge, upon any public highway which it is the duty of the boards to maintain
24 and repair, a conspicuous sign specifying in large numerals, the maximum weight of any vehicle,
25 laden or unladen, which may enter upon or cross over such bridge. No bridge signing is

1 necessary for bridges which can accommodate motor vehicles operating under the legal weight
2 maximums provided in § 32-22-16.

3 Section 9. That § 32-25-9.1 be amended to read as follows:

4 32-25-9.1. Any board of county commissioners may determine and establish speed zones
5 upon all or any part of the highways under its jurisdiction and upon streets and highways on the
6 request of and after any other local authority, including any road district, having charge of the
7 maintenance ~~thereof~~ of the highway has declared its intention to post speed zones. Such speed
8 zones shall be conspicuously posted at the beginning and ending of the zones.

1 **BILL HISTORY**

2 1/16/99 First read in House and referred to Local Government. H.J. 73

3 1/21/99 Scheduled for Committee hearing on this date.

4 1/21/99 Local Government Deferred to another day.

5 1/28/99 Scheduled for Committee hearing on this date.

6 1/28/99 Local Government Do Pass Amended, Passed, AYES 11, NAYS 1. H.J. 235

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

228C0126

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB1075** - 1/29/99

Introduced by: Representatives Eccarius, Broderick, Brooks, Brown (Richard), Davis, Diedrich (Larry), Duniphan, Fiegen, Fischer-Clemens, Koetzle, Konold, Kooistra, and Richter and Senators Hutmacher, Brown (Arnold), Everist, Flowers, Hainje, Ham, Madden, Moore, Olson, Shoener, Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to repeal certain provisions related to public school open
2 enrollment procedures and tuition.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-28-38 be repealed.

5 ~~— 13-28-38. Tuition required pursuant to § 13-28-22 may be waived if agreed to by the school~~
6 ~~boards involved. Notwithstanding §§ 13-6-85, 13-28-10, 13-28-20, and 13-28-21, the decision~~
7 ~~of a school board to waive or not to waive tuition is final except as specifically provided in this~~
8 ~~section. If a school board agrees to waive tuition, the district receiving the student may count~~
9 ~~the student for state funding formula purposes and is entitled to reimbursement for that student~~
10 ~~through the state funding formula. Any request for a waiver of tuition shall be made to the~~
11 ~~affected school boards by the parent or guardian of the affected student. The school boards shall~~
12 ~~take action on the request within forty-five days after receiving the request. A school board's~~
13 ~~decision pursuant to this section may be appealed to the circuit court in the time and manner~~
14 ~~specified by § 13-46-1 or to the secretary of Education and Cultural Affairs within thirty days~~
15 ~~from the date of the decision of the school board by filing a notice with the secretary if the~~

~~Department of Education and Cultural Affairs. The granting of any waiver is not a legal precedent for any future request for waiver.~~

Section 2. That § 13-28-43 be amended to read as follows:

13-28-43. A student's parent or legal guardian who wishes to enroll the student, or an emancipated student who wishes to enroll, under the provisions of §§ 13-28-40 to 13-28-47, inclusive, in a South Dakota school district other than the resident district or in a school within the resident district other than the school to which the student has been assigned shall, ~~not later than February first of the school year preceding the year of enrollment,~~ apply on forms provided by the Department of Education and Cultural Affairs.

~~By March first, the~~ The school board of the district in which the student desires to enroll shall approve or disapprove the application. ~~The board~~ and shall notify the applicant and the resident board, if applicable, of its decision within five days of the decision. The district in which the student desires to enroll shall review the applications in the order received.

~~However, intradistrict~~ Intradistrict transfer applications may be accepted and acted upon at any time at the board's discretion if the policies on which the transfer decisions are based are consistent with the other requirements of §§ 13-28-40 to 13-28-47, inclusive.

An application may be withdrawn by the applicant ~~any time before March first~~ upon notification of the district to which the student applied. Once approved by the district in which the student wishes to enroll, the approved application serves as the applicant's notice of intent to enroll in the nonresident district or desired school during the next school ~~year~~ semester and obligates the student to attend school in the nonresident district or desired school during the next school ~~year~~ semester, unless the affected school board or boards agree in writing to allow the student to transfer back to the resident district or assigned school, or unless the parents, guardians, or emancipated student change residence to another district.

~~If a student's parents, or an emancipated student, move from a resident district into another~~

1 ~~district after February first, the parents or emancipated student may apply for enrollment in a~~
2 ~~nonresident district or in a nonassigned school under provisions of §§ 13-28-40 to 13-28-47,~~
3 ~~inclusive. In such a case, the school boards of both the new resident district and the nonresident~~
4 ~~district shall waive the application and approval dates outlined in §§ 13-28-40 to 13-28-47,~~
5 ~~inclusive, and the affected board shall review the application in a timely manner as outlined~~
6 ~~above. The applicant and the resident board shall be informed of the board's decision within five~~
7 ~~days of the board's action on the application. Once enrolled in a nonresident district or~~
8 ~~nonassigned school, the student may remain enrolled and is not required to resubmit annual~~
9 ~~applications.~~

1 **BILL HISTORY**

2 1/19/99 First read in House and referred to Education. H.J. 84

3 1/26/99 Scheduled for Committee hearing on this date.

4 1/28/99 Scheduled for Committee hearing on this date.

5 1/28/99 Education Do Pass Amended, Passed, AYES 9, NAYS 3. H.J. 236

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0536

HOUSE COMMERCE COMMITTEE ENGROSSED NO. **HB1087** - 1/29/99

Introduced by: Representatives Roe and Fischer-Clemens and Senators Shoener and Olson

1 FOR AN ACT ENTITLED, An Act to place certain restrictions on loans obtained by insurance
2 agents from their clients.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 58-30 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 No agent may obtain a loan from an existing or former client, other than a lending institution
7 authorized by state or federal law, unless there is a written contract establishing the terms for
8 repayment of the loan and the contract is filed with the division within thirty days of its effective
9 date. This section does not apply to any loans transacted between an agent and that agent's
10 spouse, parents, children, aunts, uncles, or grandparents.

1 **BILL HISTORY**

2 1/20/99 First read in House and referred to Commerce. H.J. 95

3 1/28/99 Scheduled for Committee hearing on this date.

4 1/28/99 Commerce Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 232

5 1/28/99 Commerce Place on Consent Calendar.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

535C0487

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB1091** - 1/28/99

Introduced by: Representatives Brown (Jarvis), Crisp, and Hunt and Senators Whiting, Everist, and Moore

1 FOR AN ACT ENTITLED, An Act to provide that stipulations regarding the value of an estate
2 being probated and decrees regarding the inheritance tax due be sealed.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 10-41 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Upon request of the person filing the report described in § 10-41-17, the stipulation of the
7 value of any property of the estate as described in § 10-41-32 and the decree of the court as
8 described in § 10-41-33, shall be sealed and may not be disclosed except by order of the court.
9 However, the stipulation and decree shall be available to employees of abstractors licensed
10 pursuant to chapter 36-13, employees and agents of title insurance companies licensed pursuant
11 to chapter 58-25, attorneys who are licensed to practice law pursuant to chapter 16-16 and who
12 are representing a relative of the minor within the third degree of kinship, the spouse of the
13 minor, joint tenants of the minor, any intestate heirs of the minor which relationship shall be
14 established by sworn affidavit, and such other interested persons as the court may order upon
15 a showing of the need therefor.

1 **BILL HISTORY**

2 1/21/99 First read in House and referred to Judiciary. H.J. 108

3 1/27/99 Scheduled for Committee hearing on this date.

4 1/27/99 Judiciary Do Pass Amended, Passed, AYES 10, NAYS 0. H.J. 206

5 1/27/99 Judiciary Place on Consent Calendar.

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

228C0305

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1108** - 1/29/99

Introduced by: Representatives Davis, Chicoine, Crisp, Fitzgerald, Kooistra, Lockner,
McNenny, Michels, and Nachtigal and Senators Hainje and Moore

1 FOR AN ACT ENTITLED, An Act to authorize public utilities or electric utilities to remove
2 certain obstructions that may impair its operations.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Any public utility or electric utility as defined in § 49-34A-1 and any utility
5 operated by any political subdivision of the state may remove or alter any vegetation or other
6 material if the utility determines that such removal or alteration is reasonably necessary for the
7 safe repair, use, operation, or maintenance of the utility's electric or gas transmission or
8 distribution lines.

1 **BILL HISTORY**

2 1/22/99 First read in House and referred to Local Government. H.J. 125

3 1/28/99 Scheduled for Committee hearing on this date.

4 1/28/99 Local Government Do Pass Amended, Passed, AYES 10, NAYS 1. H.J. 236

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

583C0584

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1112** - 1/29/99

Introduced by: Representatives Hanson, Broderick, Cerny, Diedtrich (Elmer), and Waltman
and Senators Moore, Brown (Arnold), Dunn (Jim), Munson (David), Reedy,
and Symens

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to tampering with public
2 water systems and to provide a penalty therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That subdivision (3) of § 49-34-18 be amended to read as follows:

5 (3) "Tampering," damaging, altering, adjusting or in any manner interfering with or
6 obstructing the action or operation of any meter provided for measuring or registering
7 the amount of utility service passing through the meter, or any valve provided by the
8 utility for preventing back flow of water into the supply lines, or any other devices
9 owned and maintained by the utility;

10 Section 2. That chapter 49-34 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 It is a Class 2 misdemeanor for any person without lawful authority to connect, disconnect,
13 bypass, or tamper with a back flow preventer installed on a public water system. Nothing in this
14 section affects the right of a water service company to recover any damages caused by the
15 violation of this section.

1 **BILL HISTORY**

2 1/22/99 First read in House and referred to Local Government. H.J. 126

3 1/28/99 Scheduled for Committee hearing on this date.

4 1/28/99 Local Government Do Pass Amended, Passed, AYES 10, NAYS 0. H.J. 236

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

276C0421

HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB1140** - 1/29/99

Introduced by: Representatives McNenny, Cerny, Cutler, Duenwald, Engbrecht, Koehn,
McCoy, Napoli, Pummel, and Weber and Senators Bogue, Benson, Kleven,
Lange, Madden, Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to decrease the rate of interest on property tax certificates
2 and delinquent taxes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-9-12 be amended to read as follows:

5 10-9-12. Any tax not paid within the period prescribed in § 10-9-10 is subject to a penalty
6 of the ~~Category D~~ Category B rate of interest as established in § 54-3-16. The penalty shall
7 attach and be a charge upon the tax.

8 Section 2. That § 10-21-7.3 be amended to read as follows:

9 10-21-7.3. Any property taxes remitted by electronic transmission pursuant to § 10-21-7.1
10 are delinquent if not remitted by the third day of the month following the month the taxes are
11 due. However, notwithstanding the provisions of § 10-21-23, the first half of property taxes are
12 not delinquent if the fifth payment made monthly pursuant to §§ 10-21-7.1 to 10-21-7.3,
13 inclusive, is credited to the bank account designated by the county treasurer on or before May
14 first. If taxes become delinquent pursuant to this section, interest shall be added to the delinquent
15 taxes at the ~~Category D~~ Category B rate as established pursuant to § 54-3-16 for each day the

1 taxes are delinquent.

2 Section 3. That § 10-21-23 be amended to read as follows:

3 10-21-23. On the first day of May of the year after which taxes have been assessed, one-half
4 of all unpaid real estate taxes are delinquent. However, all real estate taxes totaling fifty dollars
5 or less shall be paid in full on or before April thirtieth. On the first day of each ~~and every~~ month
6 thereafter there shall be added as interest on ~~said~~ the delinquent taxes at the ~~Category D~~
7 Category B rate of interest as established in § 54-3-16. If the other half is not paid on or before
8 the thirty-first day of October of the same year, that also becomes delinquent on November first
9 and the same interest shall attach in the same manner.

10 Section 4. That § 10-23-8 be amended to read as follows:

11 10-23-8. Before making a sale of lands and town lots on which taxes have not been paid, the
12 treasurer shall offer each separate tract for sale in the numerical order in which it appears on the
13 tax list and receive bids for it. If any person bids the full amount of the taxes, interest, and costs
14 due on the land or town lots, stating in the bid the lowest rate of interest per year at which the
15 bidder will pay the taxes assessed and due against the land and lots, the treasurer shall sell to that
16 person the land or town lots and shall issue a certificate of sale to the purchaser. In no case may
17 the rate of interest exceed the rate named in the bid and the bid offered on the land or lots at the
18 lowest rate of interest per year shall be considered the best bid. No rate of interest higher than
19 ~~twelve~~ ten percent per year is a valid bid pursuant to this section. Upon redemption of a
20 certificate that has been sold or assigned to a purchaser other than the county, a fee shall be
21 deducted from the proceeds paid to the holder of the certificate. The county commission may,
22 by resolution, establish a fee not to exceed fifty dollars. No property owner may be assessed this
23 additional fee. The fee shall be deposited in the county general fund. Nothing less than the entire
24 tract or lot may be sold.

25 Section 5. That § 10-23-23 be amended to read as follows:

1 10-23-23. All real property sold for delinquent special assessments pursuant to § 10-23-1 and
2 not redeemed shall be entered by the county treasurer upon the duplicate tax lists of the county
3 for the succeeding years and noted upon all duplicate tax receipts for the real property. The
4 county treasurer shall add to the amount of each special assessment so certified interest at the
5 ~~Category D~~ Category B rate of interest as established in § 54-3-16, and ten cents on each lot or
6 parcel of ground for ~~costs~~ the cost of advertising. No other costs or penalties may be added
7 except as provided by law for certificate of sale, deed, and acknowledgment.

8 Section 6. That § 10-23-25 be amended to read as follows:

9 10-23-25. ~~Whenever~~ If the county treasurer of any county bids off any real property in the
10 name of the county, ~~he~~ the treasurer shall make out a certificate of purchase to the county in the
11 same manner as if sale had been made to any other person. The certificate shall be retained by
12 the treasurer, but no tax receipt may be issued and no amount may be due the state, or any other
13 fund, ~~and no~~ No treasurer's commission may be paid by the county until redemption has been
14 made from the sale or the time of redemption has expired, or until the interest of the county has
15 been assigned. The certificate ~~so~~ issued to the county shall bear interest at the ~~Category D~~
16 Category B rate of interest as established in § 54-3-16.

17 Section 7. That § 10-27-5 be amended to read as follows:

18 10-27-5. If the party seeking relief asserts the invalidity of the tax, its application or its legal
19 existence as a lien or claim against the property involved, as distinguished from irregularities in
20 procedure no tender may be required as to any portion properly asserted to be invalid or void
21 as a tax for any reason going to its base or legal existence. In all such cases, the court in the
22 action or proceeding shall first determine the question of the legality or existence of any tax and,
23 if necessary, to make proper assessment, calculation, and order as to the amount, if any, which
24 should have been legally paid. All of this shall be determined as of the date when the assessment
25 and levy was or should have been made, except that the due date of the tax shall be established

1 as the first day of January next following the date when an assessment originally was or should
2 have been made. The court shall enter its order directing the party seeking relief to deposit a sum
3 with interest at the ~~Category D~~ Category B rate of interest as established in § 54-3-16 from the
4 date when the tax originally became or should have become due.

1 **BILL HISTORY**

2 1/25/99 First read in House and referred to Taxation. H.J. 172

3 1/25/99 House of Representatives Deferred to another day. H.J. 178

4 1/28/99 Scheduled for Committee hearing on this date.

5 1/28/99 Taxation Do Pass Amended, Passed, AYES 10, NAYS 3. H.J. 234

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

960C0138

HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB1146** - 1/29/99

Introduced by: Representatives Fiegen, Koskan, and Richter and Senators Hainje and Paisley

1 FOR AN ACT ENTITLED, An Act to revise the procedure for determining when the unpaid
2 taxes of a mobile home are delinquent.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-9-10 be amended to read as follows:

5 10-9-10. ~~The~~ On May first, after the tax as computed as prescribed in § 10-9-9 ~~becomes due~~
6 ~~and payable immediately to the county treasurer for the current year. However, the tax does not~~
7 ~~become delinquent if one-half of the tax is paid on or before April thirtieth and the second half~~
8 ~~paid on or before October thirty-first of that year or if registered after April thirtieth if paid on~~
9 ~~or before October thirty-first of that year~~ has been assessed, one-half of the unpaid real estate
10 tax is delinquent. However, any real estate tax totaling fifty dollars or less shall be paid in full on
11 or before April thirtieth. If the other half of the real estate tax is not paid on or before October
12 thirty-first of that year, that portion of the unpaid real estate tax is delinquent. If a mobile home
13 is registered after October thirty-first, the taxes for that year shall be paid within thirty days. Any
14 delinquent tax immediately becomes subject to the provisions of §§ 10-9-12, 10-9-13, and
15 10-9-13.1.

1 **BILL HISTORY**

2 1/25/99 First read in House and referred to Taxation. H.J. 174

3 1/28/99 Scheduled for Committee hearing on this date.

4 1/28/99 Taxation Do Pass Amended, Passed, AYES 13, NAYS 0. H.J. 234

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

647C0525

HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEE ENGROSSED NO. **HCR1003 - 1/29/99**

Introduced by: Representatives Weber, Cerny, Chicoine, Crisp, Engbrecht, Fryslye, Garnos, Hagen, Haley, Hanson, Jaspers, Kazmerzak, Klaudt, Koehn, Kooistra, Lintz, Lockner, Lucas, McIntyre, Putnam, Sutton (Duane), and Waltman and Senators Lange, Dennert, Flowers, Halverson, Hutmacher, Kleven, Kloucek, Lawler, Moore, Symens, and Vitter

1 A CONCURRENT RESOLUTION, Recognizing an agriculture crisis day.

2 WHEREAS, "Save Rural Main Street" is a grassroots program made up of rural main street
3 businesses that began in Ziebach and Dewey counties of South Dakota and is rapidly gaining
4 statewide support; and

5 WHEREAS, agriculture is the mainstay industry of the local economy and it is recognized
6 that there is a serious crisis affecting all agriculture products; and

7 WHEREAS, continued low agriculture prices will force farm and ranch liquidations and this
8 will in turn affect the local economies of small rural towns in many ways; and

9 WHEREAS, small rural South Dakota towns cannot afford to lose agricultural-based
10 families; and

11 WHEREAS, the agricultural crisis that is crippling the small town economies must be dealt
12 with immediately by state and federal government leaders; and

13 WHEREAS, the businesses represented by the membership of the "Save Rural Main Street"

1 project realize that losses of farm and ranch families from our rural areas will create a domino
2 effect that will eventually lead to the loss of schools, churches, and main street businesses:

3 NOW, THEREFORE, BE IT RESOLVED, by the House of Representatives of the Seventy-
4 fourth Legislature of the State of South Dakota, the Senate concurring therein, that February 17,
5 1999 be recognized as an agriculture crisis day in South Dakota.

6 BE IT FURTHER RESOLVED, that the South Dakota Department of Agriculture observe
7 this day by sponsoring a one day hearing in Pierre, South Dakota to gather testimony from our
8 agriculture producers, small town mayors or council members, and business people on their
9 plight to survive.

1 **BILL HISTORY**

2 1/28/99 Scheduled for Committee hearing on this date.

3 1/28/99 Agriculture and Natural Resources Adopt Resolution as Amended, AYES 13, NAYS

4 0. H.J. 234

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0205

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB20** - 1/19/99

Introduced by: The Committee on Judiciary at the request of the Department of Corrections

1 FOR AN ACT ENTITLED, An Act to provide for court-ordered restitution at the time a
2 defendant is sentenced to the state penitentiary.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 23A-28-3 be amended to read as follows:

5 23A-28-3. If the sentencing court orders the defendant to the county jail, suspended
6 imposition of sentence, suspended sentence, or probation, the court may require as a condition
7 that the defendant, in cooperation with the court services officer assigned to the defendant,
8 promptly prepare a plan of restitution, including the name and address of each victim, a specific
9 amount of restitution to each victim and a schedule of restitution payments. If the defendant is
10 presently unable to make any restitution, but there is a reasonable possibility that the defendant
11 may be able to do so at some time during his the defendant's probation ~~or parole~~ period, the plan
12 of restitution shall also state the conditions under which or the event after which the defendant
13 will make restitution. If the defendant believes that no person suffered pecuniary damages as a
14 result of the defendant's criminal activities, the defendant shall so state. If the defendant contests
15 the amount of restitution recommended by the court services officer, the defendant is entitled to
16 a hearing at which the court shall determine the amount. If the sentencing court orders the

1 defendant to the state penitentiary and does not suspend the sentence, ~~the Board of Pardons and~~
2 ~~Paroles shall require as a condition of parole that the defendant, in cooperation with the~~
3 ~~executive director of the Board of Pardons and Paroles, prepare the plan of restitution as~~
4 ~~described in this section~~ the court shall set forth in the judgment the names and specific amount
5 of restitution owed each victim. The Department of Corrections shall establish the collection
6 schedule for court-ordered restitution while the defendant is in the penitentiary and on parole.
7 The Board of Pardons and Paroles shall require, as a condition of parole, that the defendant pay
8 restitution ordered by the court.

9 Section 2. That § 23A-28-5 be amended to read as follows:

10 23A-28-5. The court services officer when assisting the defendant in preparing the plan of
11 restitution and the court before approving or modifying the plan of restitution shall consider the
12 physical and mental health and condition of the defendant, the defendant's age, the defendant's
13 education, the defendant's employment circumstances, the defendant's potential for employment
14 and vocational training, the defendant's family circumstances, the defendant's financial condition,
15 the number of victims, the pecuniary damages of each victim, what plan of restitution will most
16 effectively aid the rehabilitation of the defendant, and each victim, and such other factors as may
17 be appropriate.

18 ~~For a defendant serving a sentence in the state penitentiary the board of pardons and paroles~~
19 ~~shall consider these factors when preparing the plan of restitution.~~

20 Section 3. That § 23A-28-6 be amended to read as follows:

21 23A-28-6. The court services officer shall provide each known victim a copy of the court's
22 order approving or modifying the plan of restitution for any defendant not serving his sentence
23 in the state penitentiary. The executive director of the board of pardons and paroles shall provide
24 each known victim a copy of the plan schedule of restitution ~~approved or modified by the board~~
25 ~~of pardons and paroles~~ for each inmate placed on parole. If the victim is not satisfied with the

- 1 approved or modified plan of restitution, the victim's exclusive remedy is a civil action against
- 2 the defendant, which, if successful, may include attorney's fees.

1 **BILL HISTORY**

2 1/12/99 First read in Senate and referred to Judiciary. S.J. 18

3 1/15/99 Scheduled for Committee hearing on this date.

4 1/16/99 Judiciary Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 59

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

400C0317

SENATE JUDICIARY COMMITTEE ENGROSSED NO. **SB21** - 1/19/99

Introduced by: The Committee on Judiciary at the request of the Department of Corrections

1 FOR AN ACT ENTITLED, An Act to specify the responsible party for inmate transportation
2 to court-ordered hearings.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 19-5-5 be amended to read as follows:

5 19-5-5. A person confined in any prison ~~in this state~~, facility, or program under the control
6 of the Department of Corrections pursuant to § 1-15-1.4, may, by order of any court, be required
7 to be produced for oral examination, by the Department of Corrections, in the county where ~~he~~
8 the person is imprisoned.

9 Section 2. That § 19-5-6 be amended to read as follows:

10 19-5-6. Except as provided by § 19-5-5, the examination of a person confined in any prison
11 ~~in this state must~~, facility, or program under the control of the Department of Corrections
12 pursuant to § 1-15-1.4, shall be by deposition.

13 While a ~~prisoner's~~ an inmate's deposition is being taken, ~~he~~ the inmate shall remain in the
14 custody of the officer ~~having him~~ in charge of the inmate, who and the officer in charge shall
15 afford reasonable facilities for the taking of the deposition. If the court orders that an inmate be
16 present for oral examination in a county other than where the inmate is housed, the county where

1 the action is venued is responsible for the transport of the inmate.

2 Section 3. That chapter 1-15 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 If an inmate confined in any prison, facility, or program under the control of the Department
5 of Corrections pursuant to § 1-15-1.4, is ordered by the court to be present at a criminal
6 proceeding or a sentence modification hearing pursuant to § 23A-27-19, the prosecuting county
7 shall transport the inmate to the proceeding or hearing. If an inmate is ordered by a court to be
8 present at a hearing under § 26-7A-122, the county where the hearing is held shall transport the
9 inmate to the hearing. However, if the proceeding is for a criminal offense committed while the
10 inmate was in a Department of Corrections institution, the Department of Corrections shall
11 transport the inmate to the proceeding.

12 Section 4. That chapter 1-15 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 In the event a county or the Department of Corrections fails to transport an inmate as
15 required in this Act, the county or the department may be billed for the cost of the transport and
16 are responsible for the payment thereof.

1 **BILL HISTORY**

2 1/12/99 First read in Senate and referred to Judiciary. S.J. 19

3 1/15/99 Scheduled for Committee hearing on this date.

4 1/16/99 Judiciary Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 60

State of South Dakota

SEVENTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 1999

771C0074

SENATE LOCAL GOVERNMENT COMMITTEE ENGROSSED NO. **SB33** - 1/19/99

Introduced by: The Committee on Local Government at the request of the State Board of Elections

1 FOR AN ACT ENTITLED, An Act to create a procedure for challenging certain nominating,
2 initiative, or referendum petitions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Within five business days after a nominating, initiative, or referendum petition is
5 filed with the appropriate officer, any interested person who has researched the signatures
6 contained on the petition may file an affidavit stating that the petition contains deficiencies as to
7 the number of signatures from persons who are eligible to sign the petition. The affidavit shall
8 include an itemized listing of the specific deficiencies in question.

9 Section 2. The appropriate officer shall verify the information contained in the affidavit filed
10 pursuant to section 1 of this Act and make a written declaration regarding the validity of the
11 signatures in question. The officer shall verify that each person was a registered voter at the time
12 the person signed the petition by using the registration documents on file in the office of the
13 county auditor.

14 Section 3. The person in charge of the election shall immediately notify by certified mail any
15 candidate whose nominating petition or any primary sponsor whose referendum or initiative

1 petition is rejected and declared invalid in accordance with this Act.

2 Section 4. If a person fails to challenge a petition pursuant to section 1 of this Act, it does
3 not deny that person any other legal remedy to challenge the filing of a nominating, initiative, or
4 referendum petition.

1 **BILL HISTORY**

2 1/12/99 First read in Senate and referred to Local Government. S.J. 21

3 1/16/99 Scheduled for Committee hearing on this date.

4 1/16/99 Local Government Do Pass Amended, Passed, AYES 6, NAYS 1. S.J. 58